APPENDIX.

Statute and Regulations Involved.

Revenue Act of 1932:

"SEC. 162. NET INCOME.

"The net income of the estate or trust shall be computed in the same manner and on the same basis as in the case of an individual, except that—

"(a) There shall be allowed as a deduction (in lieu of the deduction for charitable, etc., contributions authorized by section 23(n)) any part of the gross income, without limitation, which pursuant to the terms of the will or deed creating the trust, is during the taxable year paid or permanently set aside for the purposes and in the manner specified in section 23(n), or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance or operation of a public cemetery not operated for profit;

"(b) There shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year which is to be distributed currently by the fiduciary to the beneficiaries, and the amount of the income collected by a guardian of an infant which is to be held or distributed as the court may direct, but the amount so allowed as a deduction shall be included in computing the net income of the beneficiaries whether distributed to them or not. * * *"

Treasury Regulations 77, relating to the Revenue Act of 1932:

"Art. 861. ESTATES AND TRUSTS.—In general, the income of a trust for the taxable year which is

to be distributed to the beneficiaries must be returned by and will be taxed to the respective beneficiaries, but the income of a trust which is to be accumulated or held for future distribution, whether consisting of ordinary income or gain from the sale of assets included in the corpus of the trust, must be returned by and will be taxed to the trustee. The exception to this general rule is with respect to the income of a trust revocable by the grantor, and the income of a trust which may be distributed to the grantor or used to pay the premiums upon policies of insurance on his life, which income, whether or not distributed, must be returned by and will be taxed to the grantor of the trust. (See sections 166 and 167 and article 881.)

"See section 142 and articles 741-746 with reference to fiduciary returns, and section 24 and articles 281-284 with reference to items not deductible. (See also article 154.)

"Art. 862. METHOD OF COMPUTATION OF NET INCOME AND TAX.—The Act provides that the tax computed upon the net income of the estate or trust shall be paid by the fiduciary, except as provided in sections 166 and 167. (See article 881.) However, in computing the net income of the estate or trust, the following deductions will be allowed either in addition to, or in lieu of (as the case may be), those specified in sections 23, 119, 213, and 251 in the case of individuals:

"(1) If the terms of the will or of the deed creating the trust direct that any part of the gross income of the estate or trust (a) be paid or permanently set aside for charitable or other purposes, as specified in section 23(n), or (b) be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establish-

ment, acquisition, maintenance, or operation of a public cemetery not operated for profit, such gross income so paid or set aside during the taxable year shall be allowed as a deduction in lieu of the deduction authorized by section 23(n).

"(2) The amount of the income of the estate or trust for its taxable year which is to be distributed currently by the fiduciary to the beneficiaries, and the amount of the income collected by a guardian of an infant which is to be held or distributed as the court may direct, shall be allowed as an additional deduction in computing the net income of the estate or trust. The amount so allowed as a deduction must be included by the beneficiaries in computing their net income, whether distributed to them or not. If the taxable year of the beneficiary differs from that of the estate or trust, the amount which he is required to include in computing his net income shall be based upon the income of the estate or trust for its taxable year ending within his taxable year. The amounts which are allowed as a deduction under this paragraph shall not be allowed as a deduction under paragraph (3) of this article in any taxable year.

"(3) Income received by the estate of a deceased person during the period of administration or settlement of the estate, and income of a trust which may in the discretion of the fiduciary be either distributed to the beneficiary or accumulated, is allowable as an additional deduction in computing the net income of the estate or trust for its taxable year to the amount thereof properly paid or credited during such year to any legatee, heir, or beneficiary. Any amount so allowed as a deduction shall be included by a legatee, heir, or beneficiary in computing his net income."